



MINERAL POLICY CENTER

*Protecting
Communities
and the
Environment*

THE RAHALL-SHAYS-INSLEE ENVIRONMENTAL AND TAXPAYER MINING REFORM BILL

The antiquated General Mining Law of 1872 is one of the last remaining American dinosaurs of the old public resource giveaways. This 130-year-old law allows private companies to take valuable minerals from public lands without paying any royalties, and to purchase public land at the 1872 price of less than \$2.50 an acre. Furthermore, because the Mining Law contains no environmental provisions, hardrock mining wreaks havoc on ecosystems: as of 2000, 40% of western waterways are polluted by mining. To address these issues and others, Representatives Nick Rahall (D-WV), Chris Shays (R-CT), and Jay Inslee (D-WA) have introduced a new mining law reform bill. The bill includes fiscal reform, environmental protection provisions, a recognition of other land resource values besides mining, and a program to clean up abandoned mines. In more detail, the bill...

Protects Special Places from Irresponsible Mining

Under the federal government's current interpretation of the mining law, if land is not explicitly withdrawn from mining, the highest and best use for public land is mining – mine permits cannot be denied. The reform bill will remove mining from the top of the land use hierarchy in 3 ways:

1. **Authorize a land suitability test before a mine proposal is considered.** When a mine is proposed, agencies must review the land involved to ensure that it is "suitable" for mineral development – it will not cause significant permanent damage to important resource values.
2. **Authorize the discretion to deny mine permits.** If a mine is proposed in lands not deemed unsuitable for mineral development, a permit for the mine can only be granted if the damage from the mine can be minimized and if the mine can be reclaimed to set standards (see below) after mining ceases.
3. **Increase acreage of lands off limits to exploration and development.** Wilderness study areas, lands recommended for wilderness designation, lands managed as roadless areas, lands in the Wild and Scenic River System or recommended for such, and lands administratively withdrawn or segregated would be off limits to mineral exploration and development. Operations permitted before reform bill passage would be grandfathered.

Establishes Environmental Standards

Under current law, there are practically no environmental standards written specifically for mining – the Clean Water Act doesn't protect groundwater from mining pollution, there is no definition of what a reclaimed mine should look like, etc. The reform bill establishes mining specific standards:

- **Undue impairment standard** – if a proposed mine would cause undue impairment, then a land manager must deny it.
- **Reclamation standard** – generally, a reclaimed mine site must be restored to the point where either it can sustain premining uses, or it can sustain uses conforming to the applicable land use plan.
- **Fish and wildlife** – habitat must be restored to premining conditions.
- **Vegetation** – native vegetation must be restored to premining conditions. Success of revegetation is measured 5 or 10 years (for arid areas) after seeding ceases.
- **Ground and surface water** – operations must minimize damage to surface and groundwater resources, and restore premining hydrological conditions.

1612 K Street, NW
Suite 808
Washington, D.C.
20006

Telephone:
202.887.1872

Fax:
202.887.1875

Email:
mpc@mineralpolicy.org

Website:
www.mineralpolicy.org

Implements Fiscal Reforms

Current law allows extraction of public minerals without payment to the taxpayer. The 1872 Mining Law still allows for mineral bearing public land to be purchased (patented) for \$2.50 to \$5 per acre – although the annually renewed patenting moratorium has prevented that since 1995. The new reform bill addresses fiscal reform as follows:

- **Ends patenting** – Under the 1872 Mining Law, mining interests have patented an area roughly equivalent in size to the state of Connecticut containing mineral values exceeding \$245 billion. The reform bill permanently ends this practice.
- **Establishes an 8% royalty** – BLM estimates that \$982 million in hardrock minerals were taken from public lands in 2000. Industry paid no royalty for those minerals. 8% of that is \$79 million. Coal, oil and natural gas extractors pay between 8% and 12.5%.
- **Makes permanent the claim maintenance fee** – Currently subject to renewal, the claim maintenance fee requires a claim holder to pay \$100 per mining claim per year to maintain their right to mine the claimed deposit. At present, the claim maintenance fee generates the only revenue associated with hardrock mining: approximately \$25 million per year.
- **Statutorily enshrine reclamation bonding** – The recently enacted Interior Department mining regulations contain provisions that mining companies must post bonds to cover the full costs of mine clean ups. However, the regulations no longer provide cleanup standards. Without such standards, it is unclear exactly what such reclamation bonds will pay for, and taxpayers may still be exposed to liability in the future. The reform bill requires reclamation bonds with clear cleanup standards, so that taxpayers will be better protected.

Creates an Abandoned Mine Land Fund

There are over 500,000 abandoned mines in the United States that will cost between \$32 and \$72 billion dollars to reclaim. Currently there is no funding source for their reclamation. The reform bill establishes a reclamation fund.

- **All revenues from royalties and fees go to the AML fund.** The cost of administering the law would be deducted before AML expenditures occurred – the cost of processing permits would be paid by the mining industry.
- **Would apply to abandoned mines on federal lands.**
- **Priorities of the fund** – (1) Public health and safety from surface and groundwater pollution; (2) general public health and safety; (3) restoration of land, water, fish and wildlife resources.

Requires Enforcement

The reform bill should require substantially better industry oversight, including the following concepts:

- **The Secretary must use all legal powers available to prevent mining in protected areas.**
- **Failure of a mining company to address a violation requires the Secretary to stop operations causing the violation.**
- **All points of compliance must be within the permit area/mine site.**
- **Regular inspections are permitted without advance notice.** They must occur at least once per quarter. The public is allowed to request an inspection.
- **Violators can be fined up to \$25,000 per violation per day.**
- **Citizen suits are authorized.**
- **Mines can be denied based on the operating history of the company proposing them.**